

Remarks

Applicants have amended claims 1-4, 11, 22, and 23. Claims 1-23 are pending.

Amendments to the Claims

Amended claims 1-4, 11, 22, and 23 are supported by the specification as filed. More particularly, support for amended claims 1-4, 11, 22, and 23, can be found, for example, at specification page 49, Table 1A, row 12, corresponding to Gene No. 26, the HBIAE26 cDNA clone contained within ATCC Deposit No. 209224, SEQ ID NO:36 polynucleotide, and SEQ ID NO:549 polypeptide. No new matter has been added.

Election

The Examiner has required an election under 35 U.S.C. § 121 of one of Groups I-VIII. The Examiner contends that the inventions or groups of inventions are distinct. *See* Office Action mailed December 30, 2004, page 7, part 4. In order to be fully responsive, Applicants hereby elect the subject matter of Group I, corresponding to claim 1, drawn to isolated polynucleotides. Moreover, in compliance with the Examiner's request, Applicants further elect the polynucleotide sequence corresponding to SEQ ID NO:36 and the polynucleotide encoded by the HBIAE26 cDNA clone contained within ATCC™ Deposit Number 209224, for further prosecution (*see* specification page 49, Table 1A, row 12). Applicants reserve the right to file one or more divisional applications directed to non-elected subject matter.

As referenced by the Examiner, in light of the decisions in *In re Ochiai*, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995) and *In re Brouwer*, 77 F.3d 422, 37 USPQ 2d 1663 (Fed. Cir. 1996), a notice was published in the Official Gazette which set forth new guidelines for the treatment of product and process claims. *See* 1184 OG 86 (March 26, 1996). Specifically, the notice states that:

in the case of an elected product claim, rejoinder will be permitted when a product claim is found allowable and the withdrawn process claim depends from or otherwise includes all the limitations of an allowed product claim.

Id. Accordingly, Applicants respectfully request rejoinder of the claims of Group V once the claims of Group I are found allowable. *See* also M.P.E.P. § 821.04.

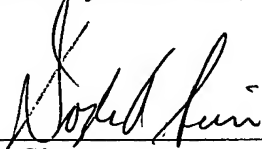
Conclusion

Applicants respectfully request that the above-made remarks be entered and made of record in the file history of the instant application. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicants would expedite the examination of this application.

If there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the fee should also be charged to our Deposit Account.

Dated: January 27, 2005

Respectfully submitted,

By  _____

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